

No. **3745**

United States
Circuit Court of Appeals
For the Ninth Circuit

UNITED STATES OF AMERICA

Plaintiff, Appellant,

vs.

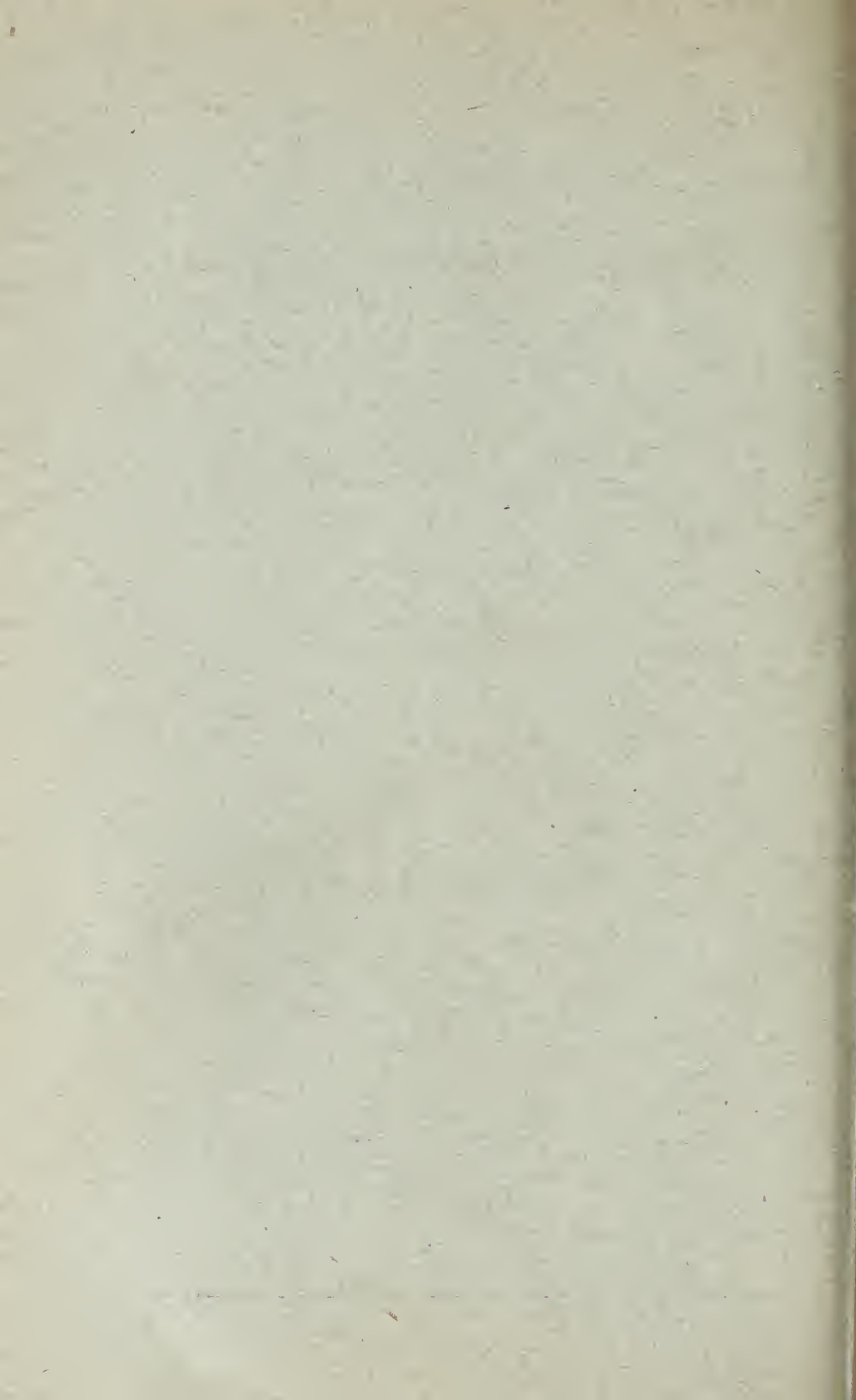
BHAGAT SINGH THIND,

Defendant, Respondent.

Transcript of Record

Upon Appeal From the United States District Court
for the District of Oregon

FILED
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F. D. MONCKTON,
CLERK



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Circuit Court of Appeals
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UNITED STATES OF AMERICA
Plaintiff, Appellant,
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Names and Addresses of Attorneys of Record

MR. LESTER W. HUMPHREYS, United States
Attorney, District of Oregon, Portland Oregon.
For Appellant.

MR. THOMAS MANNIX, Yeon Building, Portland,
Oregon.

For Respondent.

CITATION ON APPEAL

UNITED STATES OF AMERICA, ss.

To BHAGAT SINGH THIND: Greetings:

YOU ARE HEREBY CITED and ADMONISHED to be and appear in the United States Circuit court of Appeals, Ninth Circuit, to be held at San Francisco, California, on the 18th day of July, 1921, pursuant to an appeal filed in the Clerk's Office of the District Court of the United States for the District of Oregon, wherein the United States of America is appellant and Bhagat Singh Thind is respondent, to show cause, if any there be, why the judgment in said appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Given under my hand at Portland in said District
this 17th day of June, 1921.

CHAS. E. WOLVERTON,
District Judge.

DISTRICT OF OREGON,)
) ss.
 County of Multnomah)

Due service of the within citation is hereby accepted in Multnomah County, Oregon, this 17th day of June, 1921.

THOMAS MANNIX,
Attorney for Bhagat Singh Thind.

On the 17th day of June, 1921, there was duly filed in the District Court of the United States for the District of Oregon a notice of appeal and assignment of error, in words and figures as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF OREGON

| | |
|---------------------------|--------------------------|
| UNITED STATES OF AMERICA, |) |
| | Plaintiff, Appellant,) |
| vs. |) |
| BHAGAT SINGH THIND, |) |
| | Defendant, Respondent.) |

NOTICE OF APPEAL.

The above named plaintiff, United States of America, hereby appeals to the Circuit Court of Appeals, Ninth Circuit, from the Order entered on March 28, 1921, in the above entitled Court and cause, dismissing the Bill of Complaint of plaintiff, and plaintiff prays that this appeal may be allowed and that a transcript of the record and proceedings and papers upon which the aforesaid order was made, duly authenticated, may be sent to the said Circuit Court of Appeals, Ninth Circuit.

LESTER W. HUMPHREYS,
United States Attorney.

Portland, Oregon, June 17, 1921.

And now, to-wit: on June 17, 1921,

IT IS ORDERED that the appeal be allowed as prayed for.

CHAS. E. WOLVERTON,
District Judge.

Plaintiff,)

VS.

Defendant.)

Comes now the above named plaintiff and appellant and in connection with the appeal in the above entitled cause makes the following assignments of error which it avers occurred in said cause:

I.

The court erred in sustaining defendant's motion to dismiss plaintiff's bill of complaint.

II.

The court erred in ruling that the defendant was entitled under the law to naturalization as a citizen of the United States.

LESTER W. HUMPHREYS.

United States Attorney.

STATE OF OREGON,)

) ss.

County of Multnomah)

Service of the foregoing assignments of error is hereby admitted in Multnomah County, Oregon, this 17th day of June, 1921.

THOMAS MANNIX.

Attorney for Defendant, Bhagat Singh Thind.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF OREGON.

NOVEMBER TERM, 1920.

BE IT REMEMBERED, That on the 8th day of

January, 1921, there was duly filed in the District Court of the United States for the District of Oregon, a bill of complaint in words and figures as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

BHAGAT SINGH THIND,)

Defendant.)

BILL OF COMPLAINT IN EQUITY.

To the Honorable Judges of the District Court of the United States for the District of Oregon:

The UNITED STATES OF AMERICA, by Lester W. Humphreys, United States Attorney for the District of Oregon, pursuant to authority conferred upon him by the laws of the United States, brings this, its Bill of Complaint, against the above named defendant, and for cause of suit alleges:

I.

That the defendant, Bhagat Singh Thind, now resides in Multnomah County, State of Oregon, and within the jurisdiction of this Court, and since on or about the 18th day of November, 1920, has claimed to be a citizen of the United States by reason of certain hereinafter described proceedings in naturalization.

II.

That the District Court of the United States for the District of Oregon is a court having jurisdiction to naturalize aliens in the said State of Oregon, in which the naturalized alien, to-wit: Bhagat Singh

Thind, then resided and had so resided for some time prior to the said 18th day of November, 1920.

III.

That on or about the said 18th day of November, 1920, the said defendant above named was then and there an alien and subject to a foreign state and sovereign, to-wit: a person who was born within the territorial limits of India and was a subject of the King of Great Britain and Ireland and was admitted to become a citizen of the United States by the District Court of the United States for the District of Oregon on the said 18th day of November, 1920, and a certificate of naturalization was on said date issued and delivered to the said defendant under and by virtue of an order of said District Court of the United States for the District of Oregon, made and entered on or about the 18th day of November, 1920, and certificate of naturalization No. 1076938 was then and there issued to the said defendant, Bhagat Singh Thind, and ever since said date the said defendant has claimed and now claims to be a citizen of the United States by reason thereof.

IV.

That said defendant is a native of India, of full Indian blood and was born in Amrit Sar Punjab, India.

V.

That the said certificate of naturalization issued and delivered to said defendant as described in Paragraph III. hereof, was illegally procured from the said District Court of the United States for the District of Oregon, in this, to-wit: that the said defendant is not a free white person and was not a free white person on the said 18th day of November, 1920.

VI.

That under the naturalization laws of the United States of America, the said defendant was not and is not entitled to naturalization as a citizen of the United States.

VII.

That before the filing of this Bill of Complaint there had been delivered to and is now in the possession of the said United States Attorney an affidavit made and delivered by V. W. Tomlinson, United States Naturalization Examiner, showing good cause for the institution of this proceeding, which affidavit is hereto attached and incorporated herein, and is by this particular reference made a part of this Bill of Complaint as Exhibit "A".

That plaintiff has no plain, speedy and adequate remedy at law, but only in this court of equity having jurisdiction therein,

WHEREFORE PLAINTIFF PRAYS:

1. That process issue out of this court in accordance with the laws relating to naturalization proceedings and the rules and processes of this court, requiring the defendant herein to be and appear in the above entitled court on a day certain, to-wit: sixty days after the date of service thereof.

2. That said defendant be required to answer this Bill of Complaint and have a decree cancelling said certificate of naturalization taken pro confesso.

3. That the order of the said District Court of the United States for the District of Oregon, made on the said 18th day of November, 1920, and admitting the defendant herein to be a citizen of the United States of America be vacated and set aside.

4. That the certificate of citizenship No. 1076938,

issued out of the District Court of the United States for the District of Oregon, and delivered to the said Bhagat Singh Thind, be revoked and cancelled.

5. That the said defendant, Bhagat Singh Thind, be ordered to refrain and be enjoined from ever after using or enjoying any of the rights, privileges and benefits under the said certificate of naturalization, and

6. That plaintiff herein have such other, further and different relief as the nature of his case may require, or as to this Court may seem meet and just in equity.

LESTER W. HUMPHREYS,
United States Attorney,
Solicitor for Plaintiff.

EXHIBIT "A".

UNITED STATES OF AMERICA,)
) ss.
DISTRICT OF OREGON.)

I, V. W. TOMLINSON, being first duly sworn, depose and say that I am a duly appointed and acting Naturalization Examiner of the Bureau of Naturalization, Department of Labor, with official headquarters at Portland, Oregon; that as such Naturalization Examiner I am acquainted with one Bhagat Singh Thind, who heretofore filed petition for naturalization No. 988 in the United States District Court, at Portland, Oregon, and who, on or about the 18th day of November, 1920, was admitted to citizenship as a citizen of the United States in said United States District Court at Portland, Oregon; that as such Naturalization Examiner I conducted such investigation and examination as was had and made of the qualifications of the said Bhagat Singh Thind to become a

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V. W. TOMLINSON.

Subscribed and sworn to before me this 7th day of January, 1921.

G. H. MARSH,
Clerk, United States District Court,
Portland, Oregon.

AND AFTERWARDS, to-wit, on the 24th day of March, 1921, there was filed in the District Court of the United States for the District of Oregon a demurrer, in words and figures as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)

Plaintiff,)

VS.)

BHAGAT SINGH THIND,

Defendant.)

DEMURRER.

Now comes the defendant in the above entitled

suit and demurs to the complaint filed in the above entitled case for the reasons:

I.

That the complaint filed in the above entitled case does not state facts sufficient to obtain any relief in equity;

II.

For the further reason that it appears on the face of the said complaint that all the matters set forth therein have already been judicially passed upon by the admission of the said defendant to citizenship on or about the 18th day of November, 1920:

III.

That no matters of fraud, accident or mistake are set forth in the plaintiff's complaint which would justify the interposition of a court of equity;

IV.

That the affidavit filed by V. W. Tomlinson, upon which the bill of complaint is principally based appears to contain nothing except matters already passed upon and adjudicated in the proceedings for naturalization, and further are the mere opinions of the said Tomlinson without any facts being set forth upon which the said opinions could be properly arrived at.

THOMAS MANNIX,
Attorney for Defendant.

STATE OF OREGON,)
) ss.

County of Multnomah.)

I, Thomas Mannix, one of the defendant's attorneys, do hereby certify that in my opinion the foregoing demurrer is well founded in law.

THOMAS MANNIX,
Attorney for Defendant.

Served 15th March, 1921.

L. W. HUMPHREYS,

United States Attorney.

AND AFTERWARDS, to-wit, on Monday, the 28th day of March, 1921, the same being the 19th judicial day of the regular March term of said court—Present, the Honorable CHARLES E. WOLVERTON, United States District Judge, presiding—the following proceedings were had in said cause, to-wit: IN THE DISTRICT COURT OF THE UNITED

STATES FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

BHAGAT SINGH THIND,)

Defendant.)

ORDER DISMISSING BILL.

This cause coming on for hearing on motion of defendant to dismiss plaintiff's Bill of Complaint, and it appearing that the complaint does not state facts sufficient to justify relief in equity, for the reason that said bill seeks cancellation of defendant's citizenship on the ground that said defendant is a Hindu, and a native of Punjab, India, and it further appearing that a Hindu is entitled under the laws of the United States to admission to citizenship,

It is THEREFORE, ORDERED, that plaintiff's bill be and it is hereby dismissed.

Portland, Oregon, March 28, 1921.

(Sg.) CHAS. E. WOLVERTON,

District Judge.

**Certificate of Clerk U. S. District Court to Transcript
of Record.**

United States of America,
District of Oregon,—ss.

I, G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing pages numbered from 1 to 11, inclusive, constitute the transcript of record upon appeal from the decree of the District Court of the United States for the District of Oregon in a cause in that court in which the United States of America is plaintiff and appellant and Bhagat Singh Thind is defendant and respondent; that I have compared the foregoing transcript with the original record thereof and that the same is a true and complete transcript of the record of proceedings had in said court in said cause as the same appear of record and on file in my office and in my custody.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said court at Portland, in said District, this ^{2d} day of ^{August} ~~July~~, 1921.

G. H. MARSH,
Clerk, United States District Court for the
District of Oregon.

